IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FOURTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE MR JUSTICE B.PRAKASH RAO**

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**WRIT PETITION NO : 9730 of 2002**

Between:

Vemula Pullaiah, s/o. Somaiah, Fisherman,

R/o. Medaram (v), Neredcherla(M), Nalgonda dist.

**..... PETITIONER**

AND

1)The District Collector (Election Authority), Nalgonda dist.,

at Nalgonda.

2)The Asst. Director of Fisheries, Nalgonda dist at Nalgonda.

3)Mamidi Venkateswarlu, s/o. Papaiah, r/o. Medaram village,

Neredcherla mandal, Nalgonda district.

(R.3 is impleaded as per court order in WPMP No.13179/02
dated 18.09.2002)

**.....RESPONDENTS**

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or direction more particularly one in the nature of writ of mandamus directing the respondents to issue fresh election notification to the Managing Committee including the President of FCS Medaram village, Neredcharla mandal, Nalgonda district, declaring the impugned notice no.1405/E/01, dt. 02.05.2002 of the second respondent as far as conducting of Elections of Managing Committee

excluding the President is illegal, inaction of the respondents in not considering the representation dated 29.04.2002 as illegal.

**Counsel for the Petitioner:MR.B.SAI RAM GOUD**

**Counsel for the Respondent Nos. 1 & 2: GP FOR FISHERIES**

**Counsel for the Respondent No.3. Sri K.Raghuveer Reddy**

**The Court made the following :**

**THE HON'BLE SRI JUSTICE B.PRAKASH RAO**

WRIT PETITION No. 9730 of 2002

**ORDER:**

Heard Sri B.Sai Ram Goud, learned counsel appearing on behalf of the petitioner and the learned Government Pleader for Fisheries appearing on behalf of the respondents 1 and 2 and Sri K. Raghuveer Reddy, learned counsel appearing for the third respondent.

The petitioner, who is a member of Fisheries Co-operative Society, Medaram village, Neredcharla mandal, Nalgonda district, filed this Writ Petition, *inter alia,* seeking for a Writ of Mandamus for issuance of fresh election notification for the election of managing committee including president of the said society and to declare the impugned notice dated 02.05.2002 issued by the second respondent for conducting elections to the managing committee excluding the president, as illegal and also the inaction of the respondents in not considering the representation dated 29.04.2002 as illegal.

The case of the petitioner is that the said society was constituted in

the year 1985 with 112 members and the period of the managing committee at the relevant point of time stood expired by 1998. The person-in-charge was appointed to manage the affairs of the society. Thereupon, the first respondent issued election notification for election of the managing committee as per the proceedings dated 16.10.2001, appointing Election Officer. Thereafter, the said Election Officer issued notification on 31.10.2001 proposing to conduct elections on 08.11.2001. However, though the time was fixed at 10.00 AM, the said Election Officer, it is stated by the petitioner, came in the evening hours and received nomination papers without following any procedure as contemplated under Law. Even during the process of election, the said Election Officer colluded with one Mamidi Venkateswarlu and proposed to declare him as elected without even properly counting the show of hands since the election was by way of raise of hands. It is the case of the petitioner that in fact the said Mamidi Venkateswarlu secured far less votes than that of the petitioner, who also contested the election. This has resulted in disturbance creating ugly scenes and law and order problem. The Election Officer postponed the election on the said date at about 05.10 PM and so, every one left the place. The postponement of the election was also displayed by a notice put up on the grampanchayat office. However, in spite of such postponement of the election, the impugned notice dated 02.05.2002 was issued for conducting the elections to managing committee excluding that of the president, which is wholly illegal. The petitioner submits that he had filed a representation on 29.04.2002 pointing out various irregularities and illegality of such action. In spite of the same, the respondents are proceeding with the process. Hence, the Writ Petition.

In the counter affidavit filed by the respondents 1 and 2, it is stated that having regard to the disturbance which occurred on 08.11.2001 where the Election Officer was confined in a room and certain statements were sought to be obtained for postponement of the elections. Accordingly, the Election Officer reported the matter to the

District Collector and filed a criminal complaint in crime no.445 of 2001 under Sections 143, 341, 353, 323 and 379 IPC. The case of the respondents is that on 08.11.2002, election was held for the post of president of managing committee by show of hands and declaration was also published in form-H, which was affixed on the notice board of the grampanchayat. Though the election to the managing committee was held, however, before declaration of the result of the said election, the petitioner and his sympathisers snatched away nomination papers and other books of some members and other records, creating law and order problem. Therefore, in view of the same, the impugned notice has been given on 02.05.2002 for conducting the election, which is perfectly legal.

Though several contentions were sought to be urged from both the sides in regard to the very nature of election as conducted on 08.11.2001 by the Election Officer, the main grievance of the petitioner is to the effect that having regard to the disturbance which occurred the election was postponed and therefore, the impugned notification to conduct election only in regard to the managing committee excluding the President, can not be sustained. Whereas the same is sought to be denied by the respondents to the effect that the election to the president was already conducted on 08.11.2002 and at the time when election for the managing committee was in process of finalisation, the same was disturbed. Therefore, this has resulted in issuance of the impugned notification. In the circumstances, question that arises for consideration in view of the submissions made from both the sides is as to whether the elections as conducted on 08.11.2002 in regard to the President is valid and also whether the impugned notification issued on 02.05.2002 for conducting elections to the managing committee excluding the president, is valid ?

There can not be any dispute in regard to the election aspects. It is

now well established that the said process can not be interdicted at any stage or in any manner in exercise of powers under Section 226 of the Constitution of India, more so, when once the process is already started. There is no dispute to the fact that the election process did commence and the only dispute is in regard to the fact whether there was election or not and if so, to what extent and to which post. The question whether the president was rightly elected or not, and whether there can be any election for the managing committee or not, fall well within the mischief of election dispute, for which proper remedy is provided for under the Statute. Any attempt to go into such questions would only make an encroachment upon the powers conferred on such Tribunals. Further, it has been held by the Courts that when once the election process starts, the same should not be meddled with in any manner. Having regard to the such remedy available, which is not only alternative but also sufficiently efficacious, this Court could not venture to go into these aspects in exercise of extraordinary jurisdiction under Article 226 of the Constitution of India. In view of the same, I do not find any justification to interdict the proceedings at this Stage.

The Writ Petition is, accordingly, dismissed. No costs. However, it shall be open for the petitioner to avail any other remedy available under Law.

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(B.Prakash Rao, J.)

14.03.2005

DRK

Copy to:

1)The District Collector (Election Authority), Nalgonda dist.,

at Nalgonda.

2)The Asst. Director of Fisheries, Nalgonda dist at Nalgonda.

3) Two CCs to the G.P. for Fisheries, High Court of A.P., High Court buildings, Hyderabad (o.u.t.).

4) Two CD copies.